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March 23, 2016

By ECF Only:

Honorable Ann M. Donnelly, U.S.D.J.
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Eric H. Richmond v. Select Portfolio Servicing, Inc., et al*
Appeals from the United States Bankruptcy Court, Eastern District of New York
Civil Action Nos. 15-04980-AMD; 15-05201-AMD

Dear Judge Donnelly:

This firm represents creditor-appellee Select Portfolio Servicing, Inc., as servicing agent for U.S. Bank National Association (“Appellee”) in the above-referenced bankruptcy appeals.

On March 3, 2016, this Court entered judgment affirming Chief Bankruptcy Judge Carla E. Craig’s July 1, 2015 and August 7, 2015 Orders and denying the above-referenced bankruptcy appeals. Seventeen (17) days later, on March 21, 2016, debtor-appellant Eric H. Richmond (“Appellant”) filed motions for “reconsideration”¹ thereof pursuant to Fed. R. Civ. P. 59.

It is well settled that Fed.R.Bankr.P. 8022, and not Fed. R. Civ. P. 59, governs Appellant’s motions. *See, e.g., Ben-Baruch v. Island Properties*, 362 B.R. 565, 565 (E.D.N.Y. 2007) (holding that Bankruptcy Rule 8015, which has since been renumbered as Bankruptcy Rule 8022, governs the appellant’s motion for vacatur of the district court’s order dismissing the appellant’s bankruptcy appeals); *Andruzzi v. Pryor*, No. 07–CV–452 (SJF), 2007 WL 1100784, at *1 (E.D.N.Y. Apr. 4, 2007) (“[T]he Federal Rules of Civil Procedure do not apply to an appeal from an order of the Bankruptcy Court. Since a district court is functioning as an appellate court in a bankruptcy proceeding, the Federal Rules of Bankruptcy Procedure apply.”) (citation omitted).

Accordingly, Appellee respectfully requests that Appellant’s motions be denied as untimely. *See* Fed.R.Bankr.P. 8022(a)(1) (“Unless the time is shortened or extended by order or local rule, any motion for rehearing by the district court or BAP must be filed within 14 days

¹ Appellant incorrectly designated P.B. #7, LLC as the Appellee in the caption of his motions.

after entry of judgment on appeal.”). Appellee will not otherwise respond to Appellant’s motions for rehearing unless requested by this Court. *See* Fed.R.Bankr.P. 8022(a)(3).

Respectfully yours,

/s/ David V. Mignardi

David V. Mignardi

cc: Eric H. Richmond (via first class mail)
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